

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sara Griffin	Team: Squad #4	CCRB Case #: 201902274	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/14/2019 2:00 AM	Location of Incident: § 87(2)(b)	Precinct: 69	18 Mo. SOL 9/14/2020	EO SOL 5/1/2021	
Date/Time CV Reported Thu, 03/14/2019 4:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/14/2019 4:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Imron Barakat	08093	961634	069 PCT
2. LT Justin Simms	00000	937542	069 PCT
3. POM Steve Cruz	20218	950252	069 PCT
4. LT Stanislav Feldshteyn	00000	944060	069 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Stanislav Feldshteyn	Abuse: Lieutenant Stanislav Feldshteyn stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
B.POM Imron Barakat	Abuse: Police Officer Imron Barakat stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
C.POM Steve Cruz	Abuse: Police Officer Steve Cruz stopped the vehicle in which § 87(2)(b) was an occupant.	§ 87(2)(b)
D.LT Stanislav Feldshteyn	Abuse: Lieutenant Stanislav Feldshteyn refused to provide his name to § 87(2)(b)	§ 87(2)(b)
E.POM Imron Barakat	Abuse: Police Officer Imron Barakat refused to provide his name to § 87(2)(b)	§ 87(2)(b)
F.POM Steve Cruz	Abuse: Police Officer Steve Cruz refused to provide his name to § 87(2)(b)	§ 87(2)(b)
G.POM Steve Cruz	Abuse: Police Officer Steve Cruz refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
H.LT Justin Simms	Abuse: Lieuteant Justin Simms supervised the frisk of § 87(2)(b)	§ 87(2)(b)

Case Summary

On March 14, 2019, § 87(2)(b) called the CCRB and filed the following complaint. On March 14, 2019, at approximately 2:00 a.m., Police Officer Steve Cruz, Police Officer Imron Barakat, and Lieutenant Stanislav Feldshteyn, of the 69th Precinct, stopped § 87(2)(b)'s vehicle in front of § 87(2)(b) in Brooklyn (**Allegations A-C: Abuse of Authority, § 87(2)(g)**). LT. Feldshteyn allegedly refused to provide his name to § 87(2)(b) (**Allegation D: Abuse of Authority, § 87(2)(g)**). PO Barakat allegedly refused to provide his name to § 87(2)(b) (**Allegation E: Abuse of Authority, § 87(2)(g)**). PO Cruz refused to provide his name and shield number to § 87(2)(b) (**Allegations F and G: Abuse of Authority, § 87(2)(g)**). Lieutenant Justin Simms frisked § 87(2)(b) (**Allegation H: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was issued two summonses for tinted windows.

There is Body Worn Camera (BWC) footage capturing the incident.

Findings and Recommendations

Allegation A-Abuse of Authority: Lieutenant Stanislav Feldshteyn stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation B-Abuse of Authority: Police Officer Imron Barakat stopped the vehicle in which § 87(2)(b) was an occupant.

Allegation C-Abuse of Authority: Police Officer Steve Cruz stopped the vehicle in which § 87(2)(b) was an occupant.

It is undisputed that § 87(2)(b) was operating his vehicle with tinted windows and a temporary license plate.

§ 87(2)(b) testified (Board Review 6) to having tinted windows and a temporary tag from New Jersey on his vehicle.

PO Cruz testified (Board Review 1) that § 87(2)(b)'s vehicle was traveling westbound on § 87(2)(b) with tinted windows. § 87(2)(b)'s vehicle also had a temporary license plate and there is a condition within the confines of the 69th Precinct regarding temporary tags being forged.

PO Barakat issued two Vehicle and Traffic Law summonses to § 87(2)(b) for having window tint percentages of 33% (Board Review 2).

In a subclip of PO Barakat's BWC (Board Review 3), Lt. Feldshteyn is heard explaining to § 87(2)(b) that he was stopped for having tinted windows and a temporary license plate.

New York State Vehicle and Traffic Law section 375-12 (b) (2) states that side wings or side windows can be covered by or treated with any material that has light transmittance of less than seventy percent (Board Review 4). A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d 210 (1976) (Board Review 5). The courts have held that the decision to stop an automobile is reasonable where the officers have probable

cause to believe that a traffic violation has occurred, regardless of their intentions. People v. Robinson 97 N.Y.2d. 341 (2004) (Board Review 18).

§ 87(2)(g)

Allegation D- Abuse of Authority: Lieutenant Stanislav Feldshteyn refused to provide his name to § 87(2)(b)

Allegation E-Abuse of Authority: Police Officer Imron Barakat refused to provide his name to § 87(2)(b)

Allegation F- Abuse of Authority: Police Officer Steve Cruz refused to provide his name to § 87(2)(b)

Allegation G- Abuse of Authority: Police Officer Steve Cruz refused to provide his shield number to § 87(2)(b)

It is undisputed that § 87(2)(b) refused to provide his documentation to the officers and turn off his vehicle. § 87(2)(b) called 911 and was transferred to IAB. § 87(2)(b) requested an additional supervisor respond to the scene while on the phone with IAB. § 87(2)(b) remained seated in his vehicle and conversed with the officers while waiting for the additional supervisor.

§ 87(2)(b) testified (Board Review 6) that after being informed of the reason for the vehicle stop, he requested the officers' names and shield numbers. All three officers were standing near the driver's door and were in a position to hear the requests. PO Barakat provided only his shield number. Lt. Feldshteyn and PO Cruz did not provide their information.

In a subclip of PO Barakat's BWC (Board Review 7), § 87(2)(b) is observed seated inside of his vehicle. PO Barakat and PO Cruz are standing at the driver's door. § 87(2)(b) is speaking in the direction of PO Barakat and PO Cruz. At 0:08, § 87(2)(b) looks in PO Cruz's direction and states, "Can you identify yourself? You're talking to me. You haven't identified yourself, sir." PO Barakat responds with his name and his shield number of "8093." PO Cruz is heard telling § 87(2)(b) that the additional supervisor he had requested to the scene had arrived. PO Cruz does not provide his name and shield number to § 87(2)(b).

PO Cruz testified (Board Review 1) that he had been standing on the passenger side, while PO Barakat spoke to § 87(2)(b) on the driver's side. § 87(2)(b) was noncompliant in providing his documentation to both PO Barakat and Lt. Feldshetyn, PO Cruz then walked to the driver's side, stood behind PO Barakat, and requested § 87(2)(b)'s documentation. PO Cruz and PO Barakat stood near the driver's door and § 87(2)(b) asked, "Who is he?" PO Cruz believed this statement was in reference to PO Barakat. PO Barakat provided his information to § 87(2)(b). PO Cruz denied § 87(2)(b) asked him to identify himself. During his CCRB interview, the BWC was played and PO Cruz acknowledged hearing § 87(2)(b)'s request, but stated that he did not interpret the request to be directed towards him, but towards PO Barakat. PO Cruz denied intentionally refusing to provide his name and shield number to § 87(2)(b).

In the subclip of Lt. Feldshteyn's BWC (Board Review 8), Lt. Feldshteyn is at the rear of § 87(2)(b)'s vehicle walking towards the additional supervisor who responded to the scene, Lieutenant Justin Simms. § 87(2)(b) can be heard in the background asking the officers to identify themselves.

Prior to § 87(2)(b) requesting the officers to identify themselves, Lt. Feldshteyn is observed in a subclip from PO Cruz's BWC identifying himself by name to § 87(2)(b) as a supervisor (Board Review 9).

Patrol Guide Procedure 203-09 (Board Review 10) states that an officer must clearly state their rank, name, and shield number to anyone who requests them to do so.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation H- Abuse of Authority- Lieutenant Justin Simms frisked § 87(2)(b)

It is undisputed that after Lt. Simms responded to the scene, § 87(2)(b) was instructed to exit his vehicle. PO Cruz exited the vehicle and PO Cruz frisked § 87(2)(b)

In a subclip of PO Cruz's BWC (Board Review 11), Lt. Simms arrives and convinces § 87(2)(b) to exit his vehicle. § 87(2)(b) exits his vehicle and states, "I don't consent to any searches." Lt. Simms responds, "Like I said, I've got everything on body camera. I'm watching them. We have the right to frisk you. It is not a search. Frisk and search...there's a big difference." PO Cruz then frisks § 87(2)(b) around his waistband and legs. Lt. Simms says, "I'm the supervisor here. I'm not gonna let them do anything that's unlawful. We're allowed to frisk for weapons."

PO Cruz testified (Board Review 1) that he frisked § 87(2)(b) for weapons because he had been uncooperative in exiting his vehicle. PO Cruz did not remember if he saw any bulges on § 87(2)(b) prior to frisking him. When asked if he believed § 87(2)(b) was armed, PO Cruz stated he did not

know, but that he checked for weapons because it was dark outside, § 87(2)(b) had refused to provide his documentation and exit the vehicle, and because § 87(2)(b) had called IAB. PO Cruz did not remember if he was instructed to frisk § 87(2)(b).

Lt. Simms testified (**Board Review 19**) he responded to the incident location after being requested to the scene for an uncooperative complainant. Lt. Simms did not speak to the officers upon arrival. Lt. Simms approached § 87(2)(b) who was seated in the driver seat of his car. § 87(2)(b)'s car was on driving gear and was parked at a 90-degree angle towards the curb. Lt. Simms told § 87(2)(b) to put the car on park. § 87(2)(b) took a couple of seconds to do so, but he complied. Lt. Simms asked § 87(2)(b) for his information and attempted to get § 87(2)(b) to cooperate. § 87(2)(b) was uncooperative by asking why he was stopped, stating that it was not legal for the officers to pull him over for tinted windows, and by not providing his information. Lt. Simms attempted to explain that having a car with tinted windows is a VTL violation. Lt. Simms asked § 87(2)(b) to exit the car and he eventually complied. Lt. Simms did not recall seeing any bulges on § 87(2)(b)'s body. While Lt. Simms spoke to § 87(2)(b) PO Cruz patted § 87(2)(b)'s waistband. Lt. Simms did not know why PO Cruz frisked § 87(2)(b) but stated that PO Cruz possibly saw something on § 87(2)(b). Lt. Simms did not talk to PO Cruz. Lt. Simms did not instruct any officer to frisk § 87(2)(b). However, based on § 87(2)(b)'s noncompliance, by refusing to give his information, taking time to exit his car, the way § 87(2)(b)'s car was parked and on driving gear, provided reason for a frisk. There were no other reasons for the frisk. When asked whether he suspected § 87(2)(b) of being armed, Lt. Simms initially stated that it was possible. When asked to clarify what he meant by this, Lt. Simms explained that § 87(2)(b)'s actions made Lt. Simms suspect that he was possibly armed.

Patrol Guide Procedure 212-11 (Board Review 12) states that a frisk is authorized when the member of service reasonably suspects that the person is armed and dangerous.

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to five CCRB complaints and has been named as a victim in 16 allegations (Board Review 13):
 - § 87(2)(b) [REDACTED]
 - [REDACTED]

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Lt. Feldshteyn has been a member-of-service for 12 years and has been a subject in one prior CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
- PO Barakat has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject (Board Review 15).
- PO Cruz has been a member-of-service for seven years and has been a subject in three prior CCRB complaints and four allegations, none of which were substantiated. § 87(2)(b) [REDACTED]
- Lt. Simms has been a member-of-service for fourteen years and has been a subject in eleven prior CCRB complaints and twenty-one allegations, of which one was substantiated. § 87(2)(g) [REDACTED] :
- 201407753 involved an allegation of abuse of authority (entry and/or search), which was substantiated. The CCRB recommended that the NYPD imposed formalized training.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- On July 8, 2019, a request was sent to the Office of the New York City Comptroller for any notice of claim filed by § 87(2)(b) [REDACTED]. The results will be added to the case file upon their receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]

Squad No.: _____

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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